City of Lafayette Staff Report

For:	City Council
By:	Ann Merideth, Community Development Director
Date Written:	March 10, 2009
Meeting Date:	March 23, 2009
Subject:	Ordinance No. 582 regarding the SB 1045 amendment to the Lafayette Redevelopment Plan on the effectiveness and time limit to receive tax increment

---

Introduction

In July 2008, the Redevelopment Agency entered into an agreement with Rosenow Spevacek Group, Inc. to prepare an amendment to the Redevelopment Plan to reestablish eminent domain and to extend the deadline to incur debt. As the first step in the amendment process, RSG recommends that the Plan be amended first in accordance with SB 1045. RSG prepared the following information and analysis and attached ordinance. Both have been reviewed by the City Attorney.

Purpose

To adopt an ordinance amending the Redevelopment Plan for the Lafayette Redevelopment Project ("Redevelopment Plan") to extend the time limit on the effectiveness and time limit to receive tax increment of the Redevelopment Plan by one year, pursuant to Section 33333.2 of California Community Redevelopment Law (Health and Safety Code Sections 33000 *et seq.*) ("CRL").

Background

On September 1, 2003, state legislators signed into law Senate Bill ("SB") 1045 amending the CRL. SB 1045, as codified in CRL Section 33681.9, required redevelopment agencies to make an Educational Revenue Augmentation Fund ("ERAF") payment to their respective counties in Fiscal Year 2003-2004. In total, SB 1045 shifted $135 million from state redevelopment agencies to ERAF funds. In an effort to offset the financial burden caused by the mandated ERAF payment, SB 1045, as codified in CRL Section 33333.2, authorized redevelopment agencies to amend their redevelopment plans to extend the time limit on the effectiveness of the redevelopment plan and time limit to receive tax increment by one year for making the 2003-2004 ERAF payment. This amendment can be completed without the lengthy proceedings of a typical redevelopment plan amendment process and must be initiated by a redevelopment agency.

The Lafayette Redevelopment Agency ("Agency") paid $48,969 into the ERAF in fiscal year 2003-2004. The effectiveness of the Agency's Redevelopment Plan expires on December 27, 2023 and its time limit to receive tax increment expires on December 27, 2038. The Agency is eligible

to amend the Redevelopment Plan pursuant to CRL Section 33333.2 by extending such time limits by one year. The table below presents the current and proposed Redevelopment Plan time limits. The proposed time extensions do not alter any other time limits in the Redevelopment Plan.

Redevelopment Plan Limit	**Current Limit**	**Proposed Limit**
Redevelopment Plan Effectiveness	December 27, 2023	December 27, 2024
Collection of Tax Increment	December 27, 2038	December 27, 2039

If the City Council proceeds with this amendment, neither the City Council nor the Agency is required to comply with CRL Sections 33354.6 or 33450 *et seq.* or any other CRL provision relating to the amendment of redevelopment plans. Further, Agency staff has determined that extending the time limit on the effectiveness of the Redevelopment Plan and time limit to receive tax increment are actions exempt from the requirements of the California Environmental Quality Act ("CEQA"), pursuant to: (i) State CEQA Guidelines § 15061(b)(3), because it can be seen with certainty that such approval will not involve commitment to any specific project which may result in a potentially significant physical impact on the environment, and (ii) State CEQA Guidelines § 15378(b), because such approval constitutes the creation of a funding mechanism and/or other governmental fiscal activity.

Comments

It is staff's belief that the proposed redevelopment plan amendment will be beneficial to the Lafayette Redevelopment Project by allowing the Agency to collect additional tax increment revenues over the life of the Redevelopment Plan to fund projects that alleviate blight and create affordable housing, assuming that the $75 million limit on the amount of tax increment the Agency may collect is not reached by Fiscal Year 2039-40. If the $75 million limit is reached, the proposed amendment does not have any negative effect on the Agency.

Recommendation

Introduce Ordinance 582, and continue to April 13, 2009 for second reading and adoption.

Attachment

Ordinance 582 Amending the Time Limit on the Effectiveness and Time Limit to Receive Tax Increment of the Redevelopment Plan for the Lafayette Redevelopment Project

BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE

IN THE MATTER OF:

An Ordinance of the City Council of the City of Lafayette, Amending the Time Limit on the Effectiveness and Time Limit to Receive Tax Increment of the Redevelopment Plan For the Lafayette Redevelopment Project, Pursuant to Health & Safety Code Section 33333.6	)	Ordinance No. 582

WHEREAS, Pursuant to Ordinance No. 437 adopted on December 27, 1997, and in accordance with the provisions of California Community Redevelopment Law (Health and Safety Code Sections 33000 et seq.) ("CRL"), the City Council ("City Council") of the City of Lafayette ("City") has approved and adopted that certain Redevelopment Plan for the Lafayette Redevelopment Project ("Redevelopment Plan") for the Lafayette Redevelopment Project ("Project Area");

WHEREAS, the Lafayette Redevelopment Agency ("Agency") is engaged in activities necessary to carry out the Redevelopment Plan;

WHEREAS, pursuant to CRL § 33681.9, the Agency was required to make mandatory payments to the Contra Costa County Educational Revenue Augmentation Fund ("ERAF") for fiscal year 2003-2004;

WHEREAS, in accordance with these CRL requirements, the Agency paid $48,969 into the ERAF for fiscal year 2003-2004;

WHEREAS, pursuant to CRL § 33333.2(c), the time limit on the effectiveness of the redevelopment plan and time limit to receive tax increment of the Redevelopment Plan may be extended for one (1) year pursuant to an ordinance of the City Council in order to help mitigate the fiscal impact of the Agency's payments to the ERAF required pursuant to CRL Section 33681.9 for the 2003-2004 fiscal year;

WHEREAS, pursuant to CRL § 33333.2(c), when adopting such ordinance, neither the City Council or the Government Board of the Agency is required to comply with CRL § 33354.6 or 33450 *et seq.* or any other CRL provision relating to the amendment of the Redevelopment Plan;

WHEREAS, the Agency desires to extend the time limit on the effectiveness of the Redevelopment Plan and the time limit to receive tax increment of the Redevelopment Plan in accordance with CRL § 33333.2(c);

WHEREAS, Agency staff has determined that extending the time limit on the effectiveness of the Redevelopment Plan and the time limit to receive tax increment of the Redevelopment Plan are actions exempt from the requirements of the California Environmental Quality Act ("CEQA"), pursuant to: (i) State CEQA Guidelines § 15061(b)(3), because it can be seen with certainty that such approval will not involve commitment to any specific project which may result in a potentially significant physical impact on the environment, and (ii) State CEQA Guidelines § 15378(b), because such approval constitutes the creation of a funding mechanism and/or other governmental fiscal activity.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LAFAYETTE DOES ORDAIN AS FOLLOWS:

Section 1. The City Council hereby extends the time limit on the effectiveness of the Redevelopment Plan for one year from December 27, 2023 to December 27, 2024.

Section 2. The City Council hereby extends the time limit to receive tax increment of the Redevelopment Plan for one year from December 27, 2038 to December 27, 2039.

Section 3. The Redevelopment Plan shall remain in full force and effect and unmodified, except as specifically amended by the amendment set forth in this Ordinance or by any other ordinance amending the Redevelopment Plan.

Section 4. The City Manager is hereby authorized and directed to undertake such actions and execute such documents as may be reasonably necessary or convenient to the carrying out and administration of the actions authorized by this Ordinance.

Section 5. The Mayor shall sign this Ordinance and the City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency, whereupon the Agency is vested with the continuing responsibility for carrying out the Redevelopment Plan.

Section 6. This Ordinance shall be in full force and effect thirty (30) days from and after the date of its final passage.

Section 7. If any part of this Ordinance or the Redevelopment Plan, as amended, is held to be invalid for any reason, such decision shall not affect the validity of any remaining portion of this Ordinance or the Redevelopment Plan, as amended, and the City Council hereby declares that it would have passed the remainder of this Ordinance, if such invalid portion had been deleted.

Section 8. This Ordinance shall be introduced at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall certify to the adoption of this Ordinance and cause a summary of the Ordinance to be published in a newspaper of general circulation printed and published in the county and circulated in the City and post a full copy of the Ordinance in the City Clerk's office.

The foregoing Ordinance was introduced at a meeting of the Lafayette City Council held on March 23, 2009, and adopted and ordered published at a meeting of the City Council held on April 13, 2009 by the following vote:

Ayes:
Noes:
Abstain:
Absent:

_____
Don Tatzin, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk